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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,646	09/29/2004	Eithan Ephrati	5035-188US/P29,548USA	2270

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EXAMINER
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JONES, SCOTT E

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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07/25/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/509,646	<b>Applicant(s)</b> EPHRATI ET AL.	
	<b>Examiner</b> Scott E. Jones	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,6-16 and 19-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-16 and 19-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment filed on March 5, 2008 in which applicant amends claims 1, 4, and 16, cancels claims 5 and 8, adds new claims 19-33, and responds to the claim rejections. Claims 1-4, 6-16, and 19-33 are pending.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-16, and 19-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaDue (U.S. 5,999,808).

LaDue discloses a wireless gaming and gambling method and apparatus for wireless gaming and gambling methods utilizing wireless data communication networks such as cellular, paging and satellite networks (1:10-16).

Regarding Figs. 9 and 9B, LaDue discloses the CCAD gaming communicator 100 is configured similarly to operate like a portable video game caddy. It has a full color liquid crystal display 252, a toggle control 253, a power on button 285 and a power off button 286. These buttons control game caddy power and cellular and pager circuit power. The game caddy contains a normal 900 MHz paging receiver and a normal cellular transceiver with modified CCAD software that is compatible with AMPS analog cellular, TACS analog cellular, TDMA IS54/136 cellular, GSM TDMA cellular, or IS-95 CDMA cellular. The game caddy can be

Art Unit: 3714

configured as a dual mode cellular transceiver and can operate both in analog and digital platforms. The game caddy can also contain a differential GPS receiver. This feature is necessary for gaming casinos to track the assigned user. Another configuration that may be utilized is to establish an in building personal communications network that is compatible but yet distinct from the cellular and paging networks. The in-building PCN network manages the gaming caddies, and also provides relative location in terms of its stationary transceiver nodes. There are many ways to configure the unique gaming system. The CCAD gaming unit also can be configured as a full voice service support system by including a hands free microphone 292 and a speaker 291, so that the user can place calls to the casino control center for various information, etc. The CCAD game caddy can also be used as an advertisement and information medium. For example slow scan video images can be transmitted over the paging network, and down linked to the game caddy. Casino events, airport flight information, other travel information, the **best gaming odds**, all can be transmitted to the CCAD gaming caddy. **To place a bet** on a sports event, the **user scrolls a menu** using the scroll up button 287 and the scroll down button 288 that depicts gaming choices, to choose anything from the game Keno to electronic poker. For example, a sports betting screen depicts the day's football choices on the LCD display 252. Once a team is chosen by simply toggling over to the selection with toggle control, so indicated by a movable colored rectangle cursor, the user then selects the bet amount 294 depicted in the screen, presses the set button 289, then presses the send button 290. The CCAD gaming caddy then transmits the bet codes, user codes and authorization codes that complete the transaction. The gaming information is managed in the same manner as other CCAD applications. The CCAD gaming system can be used by any hotel or casino to provide

Art Unit: 3714

on site and off site gambling wherever the local laws allow for this type of sanctioned activity.

The CCAD game caddy can be carried anywhere there is a cellular and paging system that supports CCAD and within a metropolitan statistical area (MSA) that allows for legal gambling (10:40-11:24).

LaDue seems to lack explicitly disclosing automatically selecting the best odds on an event offered by two or more bookmakers as recited in claims 1 and 16. However, LaDue does disclose that the “best gaming odds” are downloaded to the game caddy. Thus, it would have been obvious to one having ordinary skill in the art at the time of applicant’s invention to incorporate the best gaming odds from multiple bookmakers into LaDue to automate downloading the best gaming odds to the game caddy. Fully automating wireless gaming devices are a routine endeavor in the gaming arts. Moreover, since LaDue discloses that the “best gaming odds” are downloaded to the game caddy as discussed above, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use an known web interaction system that links to web resources such as a database program that can be easily configured to automatically parse content in database fields and automatically query said fields to select the field containing the best odds. One of ordinary skill in the art, furthermore, would have expected such web interaction system and database manipulation or whatever system LaDue employs to obtain the best gaming odds, to perform equally well since both systems would perform the same function of determining the best gaming odds. Therefore, it would have been prima facie obvious to modify LaDue because such a modification would have been considered a mere design consideration which fails to patentably distinguish over the prior art.

Furthermore, LaDue appears to be silent with regards to a Web based gaming device. However, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to update LaDue's device to the latest technology. Doing so is a routine endeavor in the gaming arts.

#### ***Response to Arguments***

4. Applicant's arguments filed March 5, 2008 have been fully considered but they are not persuasive. Applicant argues there is no T, S, M (The response is not clear whether there is no T, S, M in LaDue or to what is routine to a PHOSITA); however, in *KSR v. Teleflex*, 127 S.Ct. 1727, the Supreme Court held the Federal Circuit's T, S, M test improperly transformed the general principles of the obviousness analysis into a rigid rule. Although the Office may rely on a T, S, M provided by a reference it is no longer necessary based on this Supreme Court decision. Thus, Applicant's arguments that there is no T, S, M is unwarranted. Furthermore, the Examiner relies on the precedent of KSR to provide common sense rationale for the obviousness rejection. Accordingly, the Examiner maintains the rejection.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

Art Unit: 3714

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (571) 272-4438. The examiner can normally be reached on Monday - Friday, 8:30 A.M. - 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott E. Jones/  
Primary Examiner, Art Unit 3714

SEJ